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EXAMINER

OUELLETTE, JONATHAN P

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 11/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/641,021

Applicant(s)

CAYTON ET AL.

Examiner

Jonathan Ouellette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 22-70, and 72-77 is/are rejected.
- 7) ☒ Claim(s) 21,55,71 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 21 and 71 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claim 55 is objected to because of the following informalities: "claim C1" should read "claim 54." Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 54, and 62 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Creating a customized application program is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claim 55 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claim 55 recites the limitation "said code" in the computer executable program code of claim C1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

9. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).
10. Claims 1-10, 12-19, 22-38, 40-59, 61-69, and 72-77 are rejected under 35 U.S.C. 102(e) as being anticipated by Baumgarten et al. (US 2002/0026452 A1).
11. As per independent Claims 1, 30, 54, and 62, Baumgarten discloses a method (*system, computer executable program code, or business method*) for qualifying candidates for employment with an employer, said method (*system, computer executable program code, or*

business method) comprising: executing a computer program, said computer program receiving as input from said employer a desired hiring criteria of said employer; based on said desired hiring criteria of said employer, said computer program generating at least one *customized* application program that is executable to interact with candidates for employment with said employer and determine whether each of said candidates is qualified for employment with said employer; *allowing said candidates access to the at least one generated customized application program; and responsive to input from each of said candidates to the at least one generated customized application program, said at least one generated customized application program automatically determining whether each of said candidates qualifies for a position of employment with the employer* (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

12. As per Claims 2 and 34, Baumgarten discloses wherein said desired hiring criteria includes at least one criteria selected from the group consisting of: candidate's education, candidate's work experience, candidate's possessing a particular license, candidate's language skills, and candidate's computer skills (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
13. As per Claim 3, Baumgarten discloses wherein said computer program provides a predetermined list of hiring criteria for selection by said employer as said desired hiring criteria (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
14. As per Claim 4, Baumgarten discloses wherein said computer program allows said employer to input additional hiring criteria not included on said predetermined list (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

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15. As per Claims 5 and 35, Baumgarten discloses wherein said computer program includes a user interface for interacting with said employer to receive as input said desired hiring criteria from said employer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
16. As per Claim 6, Baumgarten discloses wherein said computer program receiving said desired hiring criteria further includes: receiving said desired hiring criteria from a user interface (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
17. As per Claim 7, Baumgarten discloses wherein said user interface is a separate program executable to communicate with said computer program (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
18. As per Claims 8, 36, and 57, Baumgarten discloses wherein said at least one customized application program is executable to interact with a candidate to enable said candidate to self-administer a qualification session for a position of employment with said employer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
19. As per Claims 9, 37, and 58, Baumgarten discloses wherein said at least one customized application program enables access by one or more candidates via at least one communication platform (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
20. As per Claims 10, 38, and 59, Baumgarten discloses wherein said at least one communication platform includes platforms selected from the group consisting of telephony-based platform, web-based platform, and other processor-based platforms (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

21. As per Claims 12, 40, and 61, Baumgarten discloses wherein said at least one customized application program includes a web-based application that enables access by one or more candidates via a processor-based device via the World Wide Web (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
22. As per Claims 13 and 41, Baumgarten discloses wherein said generating step includes:
generating a plurality of said customized application program (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
23. As per Claims 14 and 42, Baumgarten discloses wherein each of said plurality of customized application programs is executable to enable interaction with candidates via a different communication platform (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
24. As per Claim 15, Baumgarten discloses said computer program receiving as input from said employer preferences of said employer as to characteristics of said at least one customized application program (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
25. As per Claim 16, Baumgarten discloses wherein said computer program receives as input from said employer indication of one or more communication platforms on which said at least one customized application program is to enable access by candidates (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
26. As per Claim 17 and 67, Baumgarten discloses wherein said at least one customized application program is executable to assist in further screening of candidates beyond determining whether based on said desired hiring criteria said candidates qualify for a

position of employment with the employer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

27. As per Claims 18 and 68, Baumgarten discloses wherein said at least one customized application program is executable to schedule future testing with a candidate determined based on said desired hiring criteria to be qualified for a position of employment with the employer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

28. As per Claims 19 and 69, Baumgarten discloses wherein said at least one customized application program is executable to administer testing of a candidate determined based on said desired hiring criteria to be qualified for a position of employment with the employer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

29. As per Claims 22 and 72, Baumgarten discloses wherein said at least one customized application program is executable to forward supplemental materials to hiring personnel of the employer for a candidate determined based on said desired hiring criteria to be qualified for a position of employment with the employer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

30. As per Claims 23, 44, and 73, Baumgarten discloses wherein said supplemental materials include at least one of the materials selected from the group consisting of candidate resume, writing sample, questionnaire, letter of recommendation, and school transcript (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

31. As per Claims 24 and 74, Baumgarten discloses wherein said at least one customized application is executable to forward said supplemental materials to hiring personnel

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electronically (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

32. As per Claims 25, 47, and 75, Baumgarten discloses wherein said at least one customized application is executable to forward said supplemental materials to hiring personnel via at least one communication method selected from the group consisting of e-mail and fax (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
33. As per Claims 26 and 76, Baumgarten discloses the step of said at least one customized application receiving said supplemental materials from a candidate (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
34. As per Claims 27, 45, and 77, Baumgarten discloses wherein said at least one customized application receives said supplemental materials via at least one of the following methods: fax, e-mail, and digital imaging device (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
35. As per Claim 28, Baumgarten discloses the step of said at least one customized application program outputting to a candidate determined by said customized application program as not qualifying for a position of employment with the employer one or more reasons for said candidate not qualifying (Abstract, Para 0048, Fig.1-3).
36. As per Claim 29, Baumgarten discloses the step of storing to a database, information about a candidate received by said at least one customized application (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

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37. As per Claim 31, Baumgarten discloses wherein said processor-based device is a device selected from the group consisting of PC, workstation, laptop computer, and PDA (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
38. As per Claim 32, Baumgarten discloses wherein said processor-based device is a server computer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
39. As per Claim 33, Baumgarten discloses wherein said server computer comprises a web server (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
40. As per Claim 43, Baumgarten discloses an input device communicatively coupled to said processor-based device to enable candidates to input supplemental materials to said processor-based device (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
41. As per Claim 46, Baumgarten discloses wherein said at least one application program is executable to electronically communicate said supplemental materials to hiring personnel (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
42. As per Claim 48, Baumgarten discloses a data storage device communicatively coupled to said processor-based device to enable storage of data received by said at least one application program (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
43. As per Claim 49, Baumgarten discloses wherein said data storage device is at least one device selected from the group consisting of hard drive, floppy disk, Compact Disc (CD), Digital Versatile Disc (DVD), and other data storage devices (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

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44. As per Claims 50, 52, 63, and 65, Baumgarten discloses wherein said processor-based device is communicatively coupled to a communication network to enable access by said employer / candidates to said computer program via said communication network (Abstract, Para 0010-0011, Para 0020-0029, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
45. As per Claims 51, 53, 64, and 66, Baumgarten discloses wherein said communication network is a network selected from the group consisting of: PSTN, wireless communication network, a proprietary network, general purpose processor-based information network, dedicated communication lines, computer network, direct PC to PC connection, LAN, WAN, modem to modem connection, Internet, Intranet, Extranet, or any combination thereof (Abstract, Para 0010-0011, Para 0020-0029, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
46. As per Claim 55 as understood by the examiner, Baumgarten discloses wherein said code for presenting and code for generating are part of a common computer program (Abstract, Para 0010-0011, Para 0020-0029, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).
47. As per Claim 56, Baumgarten discloses wherein said code for presenting and said code for generating are each part of separate computer programs that are capable of communicating with each other (Abstract, Para 0010-0011, Para 0020-0029, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

Claim Rejections - 35 USC § 103

48. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

49. Claims 11, 20, 39, 60, and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Baumgarten in view of Nadkarni (US 6,266,659).

50. As per Claims 11, 39, and 60, Baumgarten fails to disclose an IVR application that enables access by one or more candidates via telephone.

51. Nadkarni teaches an IVR application that enables access by one or more candidates via telephone (Abstract, C5 L1-13, Fig.1, Fig.3b).

52. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included an IVR application that enables access by one or more candidates via telephone, as disclosed by Durand in the system disclosed by Baumgarten, for the advantage of providing an employment system with the ability to enroll candidates via telephone, in order to allow a greater selection of communication types.

53. As per Claims 20 and 70, Baumgarten and Nadkarni discloses wherein said at least one customized application program is executable to schedule a future personal interview with hiring personnel of the employer and a candidate determined based on said desired hiring criteria to be qualified for a position of employment with the employer (Nadkarni: Abstract, C10 L10-17).

Allowable Subject Matter

54. The following is a statement of reasons for the indication of allowable subject matter: As per Claims 21 and 71, Nadkarni teaches an application that will automatically determine and provide means for scheduling an interview, but these means involve manual steps including e-mailing or telephoning the employer for available interview times. Nadkarni fails discloses *wherein said at least one customized application program interacts with a calendaring program to schedule said future personal interview at a time available for said hiring personnel.*

Conclusion

55. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

56. The following foreign patent is cited to show the best foreign prior art found by the examiner:

PCT No. WO 200104811 A1 to Anderson et al.

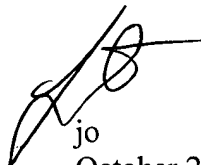
Anderson discloses an online employment recruiting method.

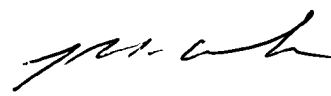
57. The following non-patent literature is cited to show the best non-patent literature prior art found by the examiner:

Borck, James R. "Recruiting systems control resume chaos – A new generation of Web-based solutions streamline the recruiting process, cutting costs and time to hire." InfoWorld, July 24, 2000.

Borck discloses several automated recruiting systems on the market,
including: Employ and iResumix.

58. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
59. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.
60. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.


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October 21, 2002


JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600